

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**DAVID L. STULTZ,**

*Plaintiff,*

**v.**

**COMMONWEALTH OF VIRGINIA, et al.,**

*Defendants.*

CASE NO. 7:13-CV-00589

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court upon Plaintiff's motion for attorneys' fees and costs, (Dkt. 586), the Report and Recommendation of U.S. Magistrate Judge Robert Ballou, (Dkt. 594) ("R&R"), Plaintiff's objections to the R&R, (Dkt. 595), Defendants' response to Plaintiff's objections (Dkt. 596), and, most recently, a Joint Notice regarding the objections to the R&R (Dkt. 598). This matter is also before the Court on Plaintiff's Motion to Strike Defendants' Untimely 'Corrected' Memorandum. (Dkt. 591).

Judge Ballou's R&R was thorough and measured in addressing what started as a contentious and sprawling dispute between the parties over legal fees, and his substantial efforts appear to have prompted the parties to resolve their dispute.

In the Joint Notice, the parties now represent that Plaintiff has agreed to withdraw his first two objections to the R&R, and that Defendants have conceded that Plaintiff's third objection was meritorious. (Dkt. 597 ¶ 5).

In the Joint Notice, the parties further "request that this Court adopt the findings of the [R&R], as modified by the above concession, and award a total of \$940,000 in fees and costs without conducting a *de novo* review of the [R&R]." (Dkt. 597 ¶ 6).

The parties further “agree that if the payment of this amount is postmarked by the Defendants within 30 days of the entry of Order by this Court, post-judgment interest will be fixed at \$1000.00. If payment is not made within that time period, interest will accrue at a rate of 1.86% per annum beginning on the day immediately after entry of Order by this Court.” (Dkt. 597 ¶ 6).

Given the agreement between the parties on the award of attorney’s fees and costs, on the aforementioned terms of payment of such fees and costs, and on the approach with respect to the Plaintiff’s objections to the R&R, the Court hereby **SUSTAINS IN PART** and **OVERRULES IN PART** Plaintiff’s objections, **ADOPTS** the R&R as modified, (Dkt. 594), and **GRANTS** Plaintiff’s motion for attorneys’ fees and costs, (Dkt. 586), awarding Plaintiff fees and costs in the amount of \$940,000.

If the payment of this amount is postmarked by the Defendants within 30 days of the entry of this Order, post-judgment interest will be fixed at \$1000.00. If payment is not made within that time period, interest will accrue at a rate of 1.86% per annum beginning on the day immediately after entry of this Order.

The Court also **DENIES AS MOOT** Plaintiff’s Motion to Strike Defendants’ Untimely ‘Corrected’ Memorandum. (Dkt. 591).

It is so **ORDERED**.

The Clerk of the Court is directed to send a certified copy of this Order to all counsel of record, and to strike this case from the Court’s active docket.

Entered this 27th day of September 2019.

  
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NORMAN K. MOON  
SENIOR UNITED STATES DISTRICT JUDGE